

Janice K. Brewer  
Governor



Brian McNeil  
Director

**ARIZONA DEPARTMENT OF ADMINISTRATION**

**HUMAN RESOURCES DIVISION**

100 NORTH FIFTEENTH AVENUE • SUITE 261  
PHOENIX, ARIZONA 85007  
(602) 542-5482

**COMPLAINT INVESTIGATION**  
**Arizona Board of Executive Clemency**  
**August 6, 2013**

**BOARD INTRODUCTION:**

In 1913 The Board of Pardons and Paroles was established and functioned as the state's discretionary releasing mechanism for inmates. In 1993, Legislation passed which eliminated Board releases for inmates whose offenses were committed after January 1, 1994. As part of this legislative change, the Board of Pardons and Paroles was renamed the Arizona Board of Executive Clemency (Board).

The mission of the Arizona Board of Executive Clemency is to ensure public safety by considering and granting parole to eligible inmates who meet the legal criteria for a grant of parole. The Board also recommends certain clemency actions to the Governor. Each month the Board conducts parole hearings for inmates who have committed offenses prior to January 1994. Parole hearings include consideration for home arrest, work furlough, rescission, modification, revocation, and absolute discharge. The Board also conducts clemency hearings, which include commutations, pardons and reprieves.

The Board consists of four Board Members and a Chairman. The Board Members serve five year terms and the Chairman serves a two year term; all are appointed by the Governor. The Board also has six full-time employment positions; five are filled, one was vacated by the complainant on May 31, 2013.

**BACKGROUND OF COMPLAINT:**

On May 16, 2013, [REDACTED] with the Board of Executive Clemency, submitted a formal complaint to the Governor's Office of Equal Opportunity. In her complaint she alleged [REDACTED], retaliation, and discrimination based on age, color, national origin, pregnancy, and race. The allegations were against the Board Director - Jesse Hernandez, and [REDACTED]. [REDACTED], Human Resources Officer in the Arizona Department of Administration (ADOA) Human Resources Division, and [REDACTED], Human Resources Program Administrator in the Governor's Office of Equal Opportunity, conducted an investigation into [REDACTED] allegations.

**Research Conducted:**

1. Investigative Interviews
2. Review of personnel action documentation, emails, agendas and memorandums relevant to alleged events
3. Statutes related to hearings

**Persons Contacted:**

- [REDACTED]
- Jesse Hernandez, Chairman/Executive Director
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

**Complainant's Employment History:**

[REDACTED] was hired by the Arizona Board of Executive Clemency as an uncovered [REDACTED] on November 5, 2012. On January 31, 2013, [REDACTED] received a memorandum of concern for failing to respect the chain of command (Exhibit One). On April 17, 2013, [REDACTED] received a memorandum advising her she was being reassigned to a different position and would be evaluated in two weeks to determine if she would remain in the position (Exhibit Two). On May 31, 2013, [REDACTED] resigned her position with the agency.

**ALLEGATIONS AND FINDINGS:**

**Allegation One**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

**Finding Allegation One**

This allegation is inconclusive.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
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[REDACTED]  
[REDACTED]

**Allegation Two**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

**Finding Allegation Two**

This allegation is inconclusive.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Allegation Three**

[REDACTED] alleged that on April 8, 2013, [REDACTED] asked Mr. Hernandez if she could attend a hearing at the Lewis Prison with [REDACTED]. [REDACTED] had already asked [REDACTED] if she could attend the hearing with him and [REDACTED] stated it was fine. Mr. Hernandez advised [REDACTED] that it was fine for her to attend but he would talk to [REDACTED] and get back to [REDACTED]. Later, Mr. Hernandez told [REDACTED] that [REDACTED] did not want [REDACTED] to attend the hearing.

**Finding Allegation Three**

This allegation is substantiated.

[REDACTED] had requested to attend a hearing with the [REDACTED] at the prison facility. Mr. Hernandez had stated this was fine. In response, [REDACTED] sent Mr. Hernandez an email about the hearing and indicated he was fine with [REDACTED] attending the hearing. Mr. Hernandez called [REDACTED] into his office and advised [REDACTED] that [REDACTED] was promiscuous and was trying to entice him. Mr. Hernandez stated that [REDACTED] is smart and attractive and has ways to get people to do things. [REDACTED] stated he has not seen [REDACTED] be anything other than professional and appropriate.

The following day Mr. Hernandez told [REDACTED] that [REDACTED] said he is uncomfortable with [REDACTED] because she comes into his office uninvited and talks to him. Mr. Hernandez stated to [REDACTED] that [REDACTED] is worried people will think he and [REDACTED] are dating. [REDACTED] denies making these comments to Mr. Hernandez or stating he did not want [REDACTED] to attend hearings.

**Allegation Four**

**Finding Allegation Four**

This allegation is inconclusive.

**Allegation Five**

██████████ alleged that Mr. Hernandez and ██████████ are dating and that ██████████ was promoted to the ██████████ position due to the dating relationship. ██████████ indicated that ██████████ is not qualified for the ██████████ position and that ██████████ received a substantial pay increase with the promotion.

**Finding Allegation Five**

This allegation is substantiated.

Mr. Hernandez and ██████████ deny ever dating or being involved in a sexual relationship. Both admitted to frequently attending happy hour together and both confirmed that they occasionally attend each other's family gatherings. Mr. Hernandez stated that he and ██████████ also occasionally carpool to and from work. However, ██████████ stated they have only carpooled once when Mr. Hernandez' vehicle was in the shop. ██████████ denies any other carpool incidents.

All four ██████████, four ██████████, and three ██████████ believe Mr. Hernandez and ██████████ are in a relationship. All have based their opinion on personal observation rather than hear say. The majority of interviewees stated that they frequently see Mr. Hernandez and ██████████ arrive at work and leave at the end of the day in the same vehicle. ██████████ stated that for a three month period between January and March of 2013, the Board was temporarily located in an ADC building while the Board office was being remodeled. During this period ██████████ stated that she personally saw Mr. Hernandez and ██████████ arrive and leave in the same vehicle 80 percent of the days they were in the temporary building. ██████████

also stated that most every day Mr. Hernandez and [REDACTED] brought in the same leftovers in identical Tupperware or both have leftovers from the same restaurant.

Every employee questioned stated that Mr. Hernandez and [REDACTED] are very comfortable and familiar with each other and act like a couple. When they speak to each other they are in very close proximity to each other, and touch each other's arm, shoulder, hair, etc. Each interviewee stated that they are both very personally affected by the other's moods and seem to "get under the other's skin, in a way that only your significant other could do."

An [REDACTED], stated that she has personally seen numerous interactions between Mr. Hernandez and [REDACTED] because her office window faces the parking lot. [REDACTED] has witnessed Mr. Hernandez give [REDACTED] a kiss when she got out of the vehicle one morning when Mr. Hernandez and [REDACTED] arrived at work in the same vehicle. She has also seen Mr. Hernandez play with [REDACTED] hair through the car window and seen [REDACTED] give Mr. Hernandez play slaps.

[REDACTED], also from [REDACTED], stated that he has seen Mr. Hernandez play with [REDACTED] hair on several occasions.

In regard to [REDACTED] promotion, [REDACTED] was promoted from a [REDACTED] to a [REDACTED] (working title [REDACTED]) on August 4, 2012. With the promotion [REDACTED] received a \$21,340 pay increase. The Personnel Action Form, job offer letter, and Position Description Questionnaire (PDQ) related to [REDACTED] promotion are provided as Exhibit Three. Review of the PDQ reveals that at the time of the promotion [REDACTED] did not meet the entry qualifications for the position. Additionally, [REDACTED] is not performing the majority of the duties listed in the PDQ.

[REDACTED] from ADOA Shared Services had assisted Mr. Hernandez with the promotion and pay increase. [REDACTED] confirmed that she reviewed the PDQ with Mr. Hernandez prior to the promotion and that she questioned [REDACTED] qualifications. However, [REDACTED] stated that Mr. Hernandez indicated that [REDACTED] was performing all the duties in the PDQ and met the qualifications of the position.

Also, [REDACTED] was aware of the significant pay increase and ADOA Shared Services entered the transaction into the Human Resources Information System (HRIS). However, at the time of the promotion Boards and Commissions were not required to receive ADOA approval before awarding pay increases to uncovered employees. Copies of the memorandums from ADOA indicating Boards were not required to receive ADOA approval for salary increases at the time of the promotion are included as Exhibit Four.

On April 25, 2013, Mr. Hernandez spoke to [REDACTED], ADOA Shared Services [REDACTED], about reallocating [REDACTED] position to an official [REDACTED], as her current position is a [REDACTED], with the working title of [REDACTED]. Mr. Hernandez and [REDACTED] discussed increasing [REDACTED] pay by 2.5 percent if her position was reallocated to a [REDACTED] position. However, [REDACTED] advised Mr. Hernandez that most requests to hire or promote [REDACTED] in small agencies have not been approved as the belief of the Department of

Administration is that small agencies do not need [REDACTED]. To date, Mr. Hernandez has not submitted the reallocation request for [REDACTED].

#### **Allegation Six**

[REDACTED] alleged that Mr. Hernandez calls employees into his office, tells them confidential information, and then asks them to gossip about each other. [REDACTED] stated that Mr. Hernandez attempts to manipulate staff and turn them against each other.

#### **Finding Allegation Six**

This allegation is substantiated.

Each employee and Board Member confirmed that they have been asked to gossip about each other, spy on each other, and each was told that other employees were talking badly about them behind their backs. They all indicated that they felt they were being manipulated and that Mr. Hernandez was attempting to turn them against each other.

Mr. Hernandez denies ever sharing confidential information about individual employees. Mr. Hernandez stated that staff freely tell him things, but he does not ask and does not share the information with other staff.

All four [REDACTED] confirmed that Mr. Hernandez has told them he was going to discharge [REDACTED] and that he has advised [REDACTED] to find another job. [REDACTED] has stated that Mr. Hernandez told her he was going to discharge [REDACTED] and [REDACTED]. All four stated that Mr. Hernandez has told them he was going to discharge [REDACTED] and [REDACTED].

Both [REDACTED] and [REDACTED] stated that Mr. Hernandez informed them that the Governor gave him permission to fire any Board Member he chose and that he was planning on dismissing [REDACTED]. [REDACTED] and [REDACTED].

[REDACTED] from [REDACTED] stated that [REDACTED] told her that Mr. Hernandez wanted information about [REDACTED]. [REDACTED] stated that it was implied that if she reported to [REDACTED] everything [REDACTED] did that the Board would hire [REDACTED] and provide her a substantial pay increase.

#### **Allegation Seven**

[REDACTED] alleged that Mr. Hernandez and [REDACTED] picked on and harassed her, subjected her to a hostile work environment, disciplined her, forbid her from speaking to co-workers, and subjected her to other actions which she stated were discriminatory.

#### **Finding Allegation Seven**

This allegation is substantiated.

According to the [REDACTED], when [REDACTED] was hired, Mr. Hernandez and [REDACTED] spent a lot of time in Mr. Hernandez' office, behind closed doors. Staff have indicated that it was clear that Mr. Hernandez really liked [REDACTED], but he only spoke to [REDACTED] when the [REDACTED], [REDACTED] was out of the office. The majority of the staff indicated that Mr. Hernandez and [REDACTED] appeared to be "flirting" with each other. Mr. Hernandez was observed touching [REDACTED] hair on several occasions by several different employees and Mr. Hernandez and [REDACTED] were reported to stand very close together when they spoke to each other.

The four staff stated that [REDACTED] seemed to resent [REDACTED] and appeared to be jealous of Mr. Hernandez' interest in [REDACTED]. [REDACTED] in turn avoided interacting with [REDACTED] and preferred to interact directly with Mr. Hernandez; which staff report exacerbated the problems between [REDACTED] and [REDACTED].

When [REDACTED] was hired she was assigned to work at the Phase I Commutations desk. [REDACTED] and the four [REDACTED] staff have indicated that [REDACTED] was performing satisfactorily at this desk. On January 22, 2013, [REDACTED] was reassigned to the Revocations Desk.

[REDACTED] was responsible for training [REDACTED] on the duties of the Revocations Desk. Three of the four staff interviewed stated that the Revocations Desk is the most difficult of all the clerical assignments and that due to the large number of Revocation hearings the desk should be managed by two staff. The staff stated that this desk was too complex for a new person to handle alone. The three staff who have worked the Revocations Desk all indicated that [REDACTED] was doing a fine job at the Revocations Desk and was not making any more errors than any of them made while in training at the Revocations Desk.

[REDACTED] stated that [REDACTED] was only on the Revocations Desk for at most three months and had not received adequate training on the desk. [REDACTED] had provided only three weeks of training, [REDACTED] had provided a small amount of training, and [REDACTED] had provided a small amount of training to [REDACTED]. All three trainers trained differently, which caused more confusion to [REDACTED].

[REDACTED] and Mr. Hernandez both reported that on April 9, 2013, [REDACTED] met with Mr. Hernandez and [REDACTED] and reported to them that [REDACTED] was making numerous severe mistakes at the Revocations Desk, which was resulting in hearings not being scheduled and inmates not being timely released from the prisons. [REDACTED] and Mr. Hernandez stated that they asked [REDACTED] to document all job functions which she trained [REDACTED] to perform and report to them any errors [REDACTED] discovered which were made by [REDACTED].

According to both [REDACTED] and Mr. Hernandez, on April 15, 2013, [REDACTED] called [REDACTED] and announced that she was resigning her position with the Board effective immediately. They stated that [REDACTED] provided explanation that she was resigning her position because working with [REDACTED] was intolerable. Both stated that [REDACTED] reported that [REDACTED] continuously gossiped and complained about [REDACTED] and Mr. Hernandez and that [REDACTED] planned to file a [REDACTED] claim against Mr. Hernandez.



According to Mr. Hernandez and [REDACTED], [REDACTED] stated she could not work with [REDACTED] due to [REDACTED] inappropriateness and the severity of the errors [REDACTED] was making on the Revocations Desk. Both stated that they advised [REDACTED] that if she did not resign that they would remove [REDACTED] from the Revocations Desk and not allow [REDACTED] to speak to [REDACTED].

Both Mr. Hernandez and [REDACTED] stated that in response to [REDACTED] desire to leave the agency because of the actions of [REDACTED], they notified all staff that they were not allowed to gossip or discuss personal issues with each other or any Board Members. Staff were also advised that they were not permitted to speak to the Board Members. In addition, offices were moved so that [REDACTED] was separated from the other staff and lunch and break schedules were staggered. All staff interviewed stated that they were told they were not allowed to speak to each other, Board Members, or ADC employees; this included personal and work related conversations and included before and after work and during breaks and lunches.

When [REDACTED] was interviewed by the investigators she stated that on April 9, 2013, she was called into a meeting with Mr. Hernandez and [REDACTED] where she was instructed to document every job duty she had trained [REDACTED], review all work completed by [REDACTED], and document anything [REDACTED] had not completed correctly. [REDACTED] was provided the same directive to report any training provided to [REDACTED] and document any errors made by [REDACTED].

[REDACTED] was puzzled by the request and indicated she had no issues with [REDACTED] work and had not brought any concerns about [REDACTED] to management's attention. [REDACTED] stated she was advised that any errors made by [REDACTED] were a direct reflection on her because she trained [REDACTED]. [REDACTED] stated that management's request felt like a "witch hunt" in which management was requesting for her to "find every single tiny thing she could find that they could use to get [REDACTED] in trouble".

[REDACTED] stated that on April 15, 2013, she called and notified [REDACTED] that she was resigning her position effective immediately. [REDACTED] told the investigators that the reason she resigned had nothing to do with [REDACTED]; rather, she resigned because she was being forced to help management find reasons to fire [REDACTED].

[REDACTED] confirmed that she stated she would rescind her resignation if management allowed her to discontinue training [REDACTED] and documenting [REDACTED] performance. [REDACTED] said she also stipulated that Mr. Hernandez needed to stop calling staff into his office and expecting them to report on their co-workers' actions and conversations. [REDACTED] also told Mr. Hernandez that he needed to stop calling staff into his office, closing the door, and flirting with them or at some point an employee would file a [REDACTED] claim against him. [REDACTED] stated that her comment was not intended to warn him that [REDACTED] was setting him up, but rather to warn him that his own actions would cause a [REDACTED] claim.

Subsequently, on April 17, 2013, [REDACTED] was reassigned to the Revocations Desk and [REDACTED] was removed from the Revocations Desk and reassigned to the Reception Desk. [REDACTED] was provided with a memorandum stating her work would be reviewed on May 1, 2013, to determine if

the Receptionist desk would become her permanent assignment. The memorandum is attached at Exhibit Two.

All four [REDACTED] stated that in mid-April 2013 it became obvious that management was displeased with [REDACTED] and they were trying to "get rid of her". They stated that management nit-picked [REDACTED] every action and that they were all required to "spy" on [REDACTED] and let management know who [REDACTED] spoke with and when she arrived to work, took lunch and breaks, went to the restroom, and left for the day. Each stated that [REDACTED] was not treated fairly and it was clear management was out to get [REDACTED].

#### Allegation Eight

[REDACTED] stated that both Mr. Hernandez and [REDACTED] regularly make inappropriate and discriminatory comments.

#### Finding Allegation Eight

This allegation is substantiated.

Following are the allegations made by [REDACTED] that were confirmed by interviewees.

1. Two [REDACTED] and [REDACTED] have confirmed that Mr. Hernandez told them [REDACTED] is promiscuous. [REDACTED] stated that Mr. Hernandez told her that when [REDACTED] went to lunch with an ADC employee, [REDACTED], "it was so much more than lunch". [REDACTED] stated that Mr. Hernandez "sounded jealous" when he made the statement. Mr. Hernandez denies making any statement about [REDACTED] being promiscuous.
2. [REDACTED] is [REDACTED] who recently graduated from college and was beginning to seek professional employment. [REDACTED] is also [REDACTED], [REDACTED], and not married. On April 26, 2013, when [REDACTED] informed [REDACTED] and Mr. Hernandez that she was [REDACTED], Mr. Hernandez told her that she was not permitted to tell any Board employee that she was [REDACTED], stated that no employer would hire her since she was [REDACTED], and told her that when she told her mother that she was [REDACTED], her mother would beat her with a bamboo stick.
3. [REDACTED] stated that she was telling Mr. Hernandez and [REDACTED] about her fiancée's cousin and his girlfriend. The girlfriend is from India and her family is considerably wealthy. [REDACTED] said to [REDACTED], "then why is she dating that white trash?" Both Mr. Hernandez and [REDACTED] also made references to [REDACTED] fiancée's family being hillbillies because they are from Arkansas.
4. [REDACTED] stated that Mr. Hernandez routinely calls her a "heathen" because she does not attend church. [REDACTED] indicated that Mr. Hernandez has called her a heathen in the presence of other staff; however, she did not recall which staff may have witnessed the comments. Neither [REDACTED] nor Mr. Hernandez were asked this question as the allegation was made after [REDACTED] and Mr. Hernandez were interviewed.

5. [REDACTED] stated Mr. Hernandez said her mother was promiscuous because after [REDACTED] parents had been divorced, her mother "got back together" with her father when her father was dying. [REDACTED] stated [REDACTED] witnessed the comment. [REDACTED] denied hearing this comment.
6. Two [REDACTED], [REDACTED] and [REDACTED], both stated that Mr. Hernandez told them [REDACTED] is too old to be effective on the [REDACTED] and that his mind is not what it used to be.
7. [REDACTED] and [REDACTED] also stated that Mr. Hernandez told them [REDACTED] needs to stop "shucking and jiving with the brothers". Both [REDACTED] stated that Mr. Hernandez was referring to [REDACTED] speaking to other [REDACTED] men and high level ADC Deputy Directors and Wardens.
8. Everyone interviewed discussed Mr. Hernandez' substantial ego and stated, "Mr. Hernandez' head is so big he can hardly get into the building". Most of the interviewees indicated Mr. Hernandez' ego is especially prevalent in his interactions with women. [REDACTED] referred to Mr. Hernandez as, "thinks he is the king and you are the maidservant and you better act that way". Several staff provided examples of Mr. Hernandez being disrespectful and yelling at women visitors and advocates during the hearings.  
  
[REDACTED] stated that she has personally heard Mr. Hernandez make inappropriate comments about women and stated [REDACTED] told him his comments were inappropriate. [REDACTED] could not recall the specific comments.
9. Three staff confirmed that Mr. Hernandez had them hold hands and then led them in a prayer at the Board Christmas party. All confirmed that Mr. Hernandez did not provide them an option of not participating. Several staff were offended. None felt they had the option of declining participation.
10. [REDACTED] from [REDACTED] stated [REDACTED] has heard Mr. Hernandez refer to inmates as "fucking scumbags".

#### **Allegation Nine**

[REDACTED] alleged that Mr. Hernandez and [REDACTED] were not holding hearings in accordance with relevant statutes and policies and that Mr. Hernandez was treating Board Members and visitors inappropriately.

#### **Finding Allegation Nine**

This allegation is substantiated.

Each [REDACTED] and [REDACTED] and the [REDACTED] were interviewed and mentioned concerns with the manner in which Mr. Hernandez conducts hearings.

██████████, ██████████ and ██████████, as well as ██████████ from ██████████ stated that the Board was violating Arizona Revised Statute § 13- 4414 (Exhibit Five) by failing to provide victims with 15 days' notice when hearings were being held or cancelled or inmates released. The issue was brought to Mr. Hernandez' attention but he continues to schedule hearings with less than 15 days as required by statute. Additionally, when hearings were cancelled the Board has failed to notify the victims. When the victims have complained Mr. Hernandez has told the victims that ██████████ was at fault for failing to notify them.

The practice for Board hearings is that a schedule is created 15 days in advance of the hearing and lists all the hearings that will be held each day. On average three to eight hearings are scheduled each day Monday through Thursday. All interested parties are notified of the date of the applicable hearing (i.e. inmates, families of inmates and victims, attorneys for the inmates or victims, and advocates for the inmates and victims). No specific times are scheduled for the hearings. Rather, any visitors, lawyers, etc. must report to the lobby at the start of the day, generally either at 8:00 a.m. or 9:00 a.m. The visitors wait in the lobby until the applicable hearing is held, then they are called into the Board room. Hearings can last anywhere from 30 minutes to three hours. Visitors can wait in the lobby anywhere from a few minutes to the entire day. The practice has always been and continues to be when Mr. Hernandez is not present, that hearings are held by prison unit and within the unit the hearings with visitors are heard first.

Three ██████████, two ██████████, and two ██████████ interviewees stated that Mr. Hernandez deliberately holds hearings in which family Members are present late in the day. Family Members are not informed what time their hearing is scheduled, so they wait in the lobby all day until they are called. They generally do not leave to eat lunch because the hearing might be held while they are gone.

For numerous years there have been vending machines in the lobby of the building so that families and visitors could have water and snacks in case there was a lengthy delay before their hearing. Mr. Hernandez has recently removed the vending machines and stated he did not want people eating in his lobby.

██████████ reported that she witnessed Mr. Hernandez hold hearings straight through all day without restroom or lunch breaks. ██████████ stated that ██████████ was vocal to Mr. Hernandez about being a ██████████ and needing to eat and take his ██████████ on regular intervals, yet Mr. Hernandez "gave ██████████ grief" and did not alter his hearing schedule to accommodate ██████████ or anyone else to eat or take breaks. ██████████ confirmed Mr. Hernandez' actions related to the hearings. ██████████ stated that his health began deteriorating so he eventually insisted on taking breaks, to which Mr. Hernandez is now supportive.

Additionally, all four ██████████ employees, all four ██████████, and all three ██████████ employees stated that Mr. Hernandez is rude and condescending to the Board Members, inmates and visitors and often talks down to them, yells at them, or does not allow them to speak. This is problematic for the Board Members who are attempting to obtain relevant information in order to make determinations on inmate releases.

In one recent instance related to the hearing of an inmate convicted of child molestation, Mr. Hernandez said on tape, "Would you like a child molester living in your neighborhood? No, okay then." During another hearing the family was requesting early release for the inmate because the inmate was dying. Mr. Hernandez stated he did not think the family was prepared. They did not know what he was referring to as no preparation was required. Mr. Hernandez stated he "would just let the inmate die" rather than consider the hearing request for release.

In another recent incident a female advocate was expressing her opinion when Mr. Hernandez stood up, yelled at her to shut up and sit down, and demanded that she not disrespect him.

Several [REDACTED] and [REDACTED] have stated that [REDACTED], the [REDACTED] of the New York Knicks was scheduled for an early release hearing about nine months ago. All notices were sent to interested parties and the parents of a victim who was murdered in the robbery leading to [REDACTED] imprisonment drove over 250 miles to attend the hearing. [REDACTED] attorney requested a continuation because they were not ready to present their case. Mr. Hernandez provided the continuation.

Several [REDACTED] and [REDACTED] have stated that Mr. Hernandez provided his personal cell phone number to [REDACTED] at the hearing and the two of them have since been in communication. Mr. Hernandez has spoken freely to staff about his relationship with [REDACTED] and joked that [REDACTED] has provided him tickets to basketball games and the two have met for lunch along with Mr. Hernandez' children. Mr. Hernandez also requested for a staff Member to take a photograph of Mr. Hernandez and [REDACTED]. The photograph was posted on [REDACTED] website. The photograph is attached as Exhibit Six.

[REDACTED] hearing was rescheduled for June 13, 2013. The victim's mother drove the 250 miles again to attend the hearing. The mother has [REDACTED] and has very limited financial resources. On the day of the hearing [REDACTED] new attorney spoke to Mr. Hernandez privately in Mr. Hernandez' office and stated that the family had fired the previous attorney that morning and therefore would be requesting a fourth continuation because they were not prepared for the hearing.

When the hearing began, Mr. Hernandez sat as the chair of the hearing. [REDACTED] attorney requested the continuation. Mr. Hernandez granted the continuation without allowing any Board Members or the victim's family to provide input. [REDACTED] and [REDACTED] have stated that it was inappropriate for Mr. Hernandez to meet with or have any communication with the inmate's family outside of the hearings. The [REDACTED] and [REDACTED] have also stated that it goes against the principles of the Board meetings for the chair to make a decision without having a discussion or allowing anyone to speak. A computer disk with the recording of the hearing is available with this report.

#### **Additional Allegations:**

The following allegations were not brought up by [REDACTED], but were brought forward by interviewees during the course of the investigation.

**Allegation Ten**

██████████ stated that Board Members are not permitted to review their recommendations before they are submitted to the Governor's Office. Rather, ██████████ edits their letters then stamps their names on them. The Board Members have requested to review the letters before they are sent and have requested to manually sign the letters. The Board Members have also requested to receive copies of the finalized recommendation letters. They have yet to see the letters before they are sent to the Governor or receive copies of the final letters.

**Finding Allegation Ten**

This allegation is substantiated.

All four Board Members have confirmed that they have requested to review the letters, sign them manually and receive copies of the final letters. However, they have yet to receive responses to their request.

Additionally, ██████████ was vocal about requesting to see the recommendation letters. ██████████ stated that in response to ██████████ vocalization of his concerns, Mr. Hernandez told ██████████ that the Governor advised Mr. Hernandez that he can fire ██████████.

**Allegation Eleven**

It was also alleged that Mr. Hernandez watches females' rear ends as they walk by, including ██████████, ██████████, ██████████ and visitors to the building.

**Findings Allegation Eleven**

This allegation is substantiated.

Three of the employees interviewed stated that they have personally witnessed Mr. Hernandez stare at the buttocks of two employees, ██████████ and ██████████, and watch them walk by until they are out of sight. One of the employees also stated that on one occasion when Mr. Hernandez was watching a woman walk by outside the window, Mr. Hernandez, stated, "Sorry, I'm a guy, I have to look".

**CONCLUSION:**

Three of the twelve allegations were found to be inconclusive. There were no witnesses to the alleged events and no documentation was provided to substantiate the claim of ██████████.

The other nine allegations of inappropriate actions by Mr. Hernandez related to his interactions with staff and board members and his handling of hearings were substantiated.

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August 6, 2013  
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**Prepared by:**

[REDACTED]

Human Resources Officer, Shared Services Unit  
Arizona Department of Administration